

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

TIMOTHY F. DEMPSEY,)
)
Petitioner,)
)
v.) Case No. 2:19-cv-00297-LSC-SGC
)
WARDEN JIMMY THOMAS, et al.,)
)
Respondents.)

MEMORANDUM OPINION

On June 28, 2021, the magistrate judge entered a report recommending the court grant Timothy F. Dempsey's motion to dismiss his petition for a writ of habeas corpus. (Doc. 64). The magistrate judge further recommended that the court deny Dempsey's requests to "reserve" the petition, for production of documents and other tangible items, and for an order requiring the Jefferson County District Attorney's Office to produce certain state court records and tangible items. (Doc. 64). Although the magistrate judge advised Dempsey of his right to file objections to the report and recommendation within 14 days, the court has not received objections.

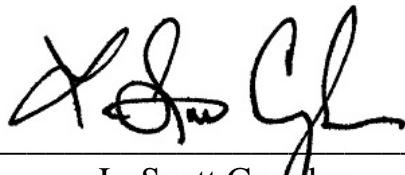
Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court **ADOPTS** the magistrate judge's report and **ACCEPTS** her recommendation. The court **GRANTS** Dempsey's motion to dismiss the petition for a writ of habeas corpus and

DISMISSES the petition **WITHOUT PREJUDICE**. The court **DENIES** Dempsey's remaining requests.

To the extent it may be required, this court **DENIES** a certificate of appealability. The court may issue a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make such a showing, a "petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong," *Slack v. McDaniel*, 529 U.S. 473, 484 (2000), or that "the issues presented were adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotations omitted). Based on the foregoing, Dempsey has failed to make the requisite showing.

The court will enter a separate order.

DONE and **ORDERED** on July 29, 2021.



L. Scott Coggler
United States District Judge

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